

**Testimony of David Rothstein,
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House Committee on Ways and Means, Subcommittee on Oversight

**Hearing on New IRS Paid Tax Return Preparer Program
July 28, 2011**

Chairman Boustany, Ranking Member Lewis, and Members of the Subcommittee, thank you for giving me the opportunity to testify on behalf of Policy Matters Ohio, the New America Foundation, and the National Community Tax Coalition. My research is primarily focused on the financial status and socioeconomic challenges experienced by the millions of low-and moderate-income tax filers in the United States, and my comments reflect the perspective of those who provide free tax assistance to these individuals through the Volunteer Income Tax Assistance (VITA) Program. My testimony today is based upon the following four premises:

- 1) low- and moderate-income tax filers need and deserve high-quality, affordable options with regards to tax preparation assistance;
- 2) the costs and approach of paid tax preparation services should be transparent and easy for consumers of such services to understand;
- 3) several exemptions related to the new paid preparer regulations were established in response to issues raised by the paid preparer industry; and
- 4) there are several implementation challenges that can be easily modified or resolved so that the process can best serve working families moving forward.

Let me start by commending the IRS for undertaking this large effort of regulating, educating, and tracking paid tax preparers. This process is critical for both the tax preparation sector and the millions of clients who use their services. The overall goal was to increase tax compliance and ensure that tax preparers were knowledgeable, ethical, and skilled. The registration process, in our view, is crucial to track “problem” tax preparers, prevent the loss of income and revenue from inflated and poorly prepared returns, maximize the intent and delivery of refundable credits, and allow consumers to comparison shop with full information in the market.

That being said, we continue to have concerns about the registration process and interpretation of guidelines related to this initiative. Mainly, our concerns are related to the enforcement of the new regulations and how non-compliance will be addressed. Additionally, we have several recommendations on how to ensure that consumers are made aware of and understand these new changes.

One concern relates to the delayed registration of paid tax preparers with the IRS. The IRS has estimated that about 100,000 paid preparers have not registered. Additionally, the data from this past tax filing season confirms that an extremely high number of fly-by-night paid tax preparation sites set up for a few weeks, charge high fees, and complete subpar and error-riddled returns. At worst, the preparers are totally disingenuous, targeting elderly and low-income filers, and selling them unnecessary services related to transferring funds, recovery rebates, and exaggerated refunds and Social Security claims. A recent wave of claims have suggested that several companies have misled consumers by intimating that they are the IRS or “associates” of some fashion.¹ Attorneys General are filing lawsuits on behalf of consumers in a number of states, and the IRS has issued warnings cautioning tax payers about these abusive practices. But the damage in terms of taxpayers’ faith in the tax preparation sector has been significant, and these continued abuses fly in the face of this new registration program.

The consumer community is concerned about enforcement, not just after these fraudulent returns are prepared but also in preventing them before they occur. These scams and any method of undercutting the registration process have significant implications for taxpayers. Taxpayers are understandably less likely to file taxes, seek help, or work with the IRS once they have been victims of a scam. In short, it is imperative that a deliberative plan is put in place to move non-compliant paid preparers into the regulation process.

A second issue of concern for taxpayers relates to who is covered by the regulations. To be clear, we strongly believe that anyone who the client thinks is a tax preparer should be registered and required to complete continuing education. The guidance from the IRS on this is helpful, but we are concerned about how it will be enforced and monitored. VITA site and Legal Aid clients commonly report that when they have engaged the services of paid preparers, the bulk of their return is typically completed by one person (where tax law and form knowledge is necessary) and then the return is signed by a paid preparer at the end who barely looks at the return. Or worse, often the return is not signed at all. The current IRS guidance stipulates that the registration process includes non-signors who are

¹ <http://milwaukeecourieronline.com/index.php/2011/07/23/irs-scam-hits-milwaukee-initiates-national-warning-from-agency/> & http://www.cleveland.com/consumeraffairs/index.ssf/2011/07/irs_state_investigate_tax_prep.html

preparing tax returns, and although this is helpful, we implore this litmus test of “who the client thinks is doing their taxes,” be used as a benchmark. Straying far from this benchmark will render the testing and continuing education for registered tax preparers ineffective. Additionally, we think it is vital that the test for certification be no less stringent than the existing individual 1040 section of the Special Enrollment Exam (Enrolled Agent Exam). The stronger the test, the better the quality of returns.

A third issue surrounds promotion and outreach for this new program. The majority of low- and moderate-income families are unaware of the new registration requirement. They do not understand what these credentials mean and how this program matters to them. Thus, a concern is that the price of paid tax preparation will increase based on this process but with no real explanation for consumers. Consumers need to know which preparer can do what services for them and what credentials are required by preparers to perform such services.

Finally, a fourth issue of concern is transparency around process and cost. Over the last decade, the price of paid tax preparation has steadily increased. Taxpayers should have the ability to research and compare prices for services. Most of the time, this is not provided to them until the return is completely prepared. Under this new program, we suggest a disclosure and transparency process, which provides a baseline of fees and costs associated with preparing the return. The fees do not have to be universal but rather an estimate for comparison purposes and to understand the fee structure upon completion. Additionally, there needs to be a centralized toll-free phone number and database for complaints. This is critical not just for enforcement but for consumers looking to research preparers and credentials. Similar to researching a housing contractor or auto repair facility using the Better Business Bureau, taxpayers should be able to research their tax preparer for type of registration, education, accreditations, and performance.

In sum, we believe that this regulation process for paid preparers is needed and appropriate. We appreciate the opportunity to testify before you on the consumer prospective related to paid tax preparation. I am happy to answer any questions at this time.

Respectfully submitted,

David Rothstein